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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 GOOGLE LLC,

13 Plaintiff,

14 vs.

15 SONOS, INC.,

16 Defendant.

CASE NO. 3:20-cv-06754-WHA

Related to CASE NO. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF ITS PATENT
SHOWDOWN MOTION FOR SUMMARY
JUDGMENT**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Patent Showdown Motion for Summary Judgment (“Motion”). Specifically, Google requests an order granting leave to file under seal the portions of the documents listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Google’s Motion	Portions highlighted in green	Google
Exhibit 1	Entire Document	Google
Exhibit 2	Entire Document	Google
Exhibit 3	Entire Document	Google
Exhibit 4	Entire Document	Google
Exhibit 5	Entire Document	Google
Exhibit 6	Entire Document	Google
Exhibit 8	Entire Document	Google
Exhibit 10	Entire Document	Google
Exhibit 11	Entire Document	Google
Exhibit 13	Portions highlighted in green	Google
Exhibit 19	Entire Document	Google
Exhibit 23	Entire Document	Google

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for

1 keeping a document under seal, includes evidentiary support from a declaration where necessary,
2 and provides a proposed order that is narrowly tailored to seal only the sealable material.

3 “Historically, courts have recognized a ‘general right to inspect and copy public records and
4 documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447
5 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 &
6 n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of
7 access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual Auto. Insurance Company*,
8 331 F.3d 1122, 1135 (9th Cir. 2003)).

9 The Ninth Circuit has recognized that two different standards may apply to a request to seal
10 a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v.*
11 *Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing
12 *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The
13 compelling reasons standard applies to any sealing request made in connection with a motion that
14 is “more than tangentially related to the merits of a case.” *Id.* Accordingly, courts in this district
15 apply a “compelling reasons” standard to a sealing request made in connection with a motion for
16 summary judgment. *See, e.g., Edwards Lifesciences Corp. v. Meril Life Scis. Pvt. Ltd.*, No. 19-CV-
17 06593-HSG, 2021 WL 5233129, at *4 (N.D. Cal. Nov. 10, 2021); *Baird v. BlackRock Institutional*
18 *Tr. Co., N.A.*, No. 17-CV-01892-HSG, 2021 WL 105619, at *5 (N.D. Cal. Jan. 12, 2021).

19 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

20 Material that is confidential and could harm a litigant’s competitive standing if disclosed
21 may be sealed under the compelling reasons standard. *Icon-IP Pty Ltd. v. Specialized Bicycle*
22 *Components, Inc.*, No. 12-cv-03844-JST2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015)
23 (information “is appropriately sealable under the ‘compelling reasons’ standard where that
24 information could be used to the company’s competitive disadvantage”); *In re Qualcomm Litig.*,
25 No. 3:17-CV-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (concluding that
26 “compelling reasons exist to seal . . . information subject to confidentiality and non-disclosure
27 provisions” because “[s]uch insight could harm the parties in future negotiations with existing
28 customers, third-parties, and other entities with whom they do business”);

1 Google's Motion and Exhibits 1, 2, 3, 4, 5, 6, 8, 10, 11, 13, 19, and 23 contain confidential
2 information regarding highly sensitive features of Google's products. Specifically, these exhibits
3 detail the operation and system design of Google products and functionalities that Sonos accuses of
4 infringement. Public disclosure of these exhibits would harm the competitive standing Google has
5 earned through years of innovation and careful deliberation by revealing sensitive aspects of
6 Google's proprietary systems, strategies, designs, and practices to Google's competitors. Hefazi
7 Decl. ¶ 4. A less restrictive alternative than sealing these exhibits would not be sufficient because
8 the information sought to be sealed is Google's proprietary and confidential business information
9 but is integral to Google's Motion. *Id.* Thus, Google has compelling reasons to keep such
10 information under seal. *See Delphix Corp. v. Actifo, Inc.*, No. 13-cv-04613-BLF, 2014 WL
11 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling reasons to seal where court filings
12 contained "highly sensitive information regarding [an entity's confidential] product architecture and
13 development"); *Guzik Tech. Enterprises, Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013
14 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013) (sealing exhibit containing "significant references to
15 and discussion regarding the technical features" of a litigant's products).

16 **IV. CONCLUSION**

17 For the foregoing reasons, Google respectfully requests that the Court grant Google's
18 Administrative Motion to File Portions of its Patent Showdown Motion for Summary Judgment
19 Under Seal.
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1 DATED: April 14, 2022

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LLP

2
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Attorneys for GOOGLE LLC

ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on April 14, 2022, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: April 14, 2022

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven